

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Kingsway Technologies, LLC, et al.,

NO. C 09-01436 JW

Plaintiffs,

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS AS MOOT**

v.

OCWEN Loan Servicing, LLC, et al.,

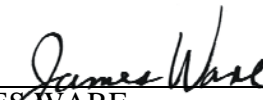
Defendants.

On June 12, 2009, Defendant OCWEN Loan Servicing filed a Motion to Dismiss Plaintiffs' Complaint noticed for hearing on September 28, 2009. (See Docket Item No. 9.) On August 4, 2009, Plaintiffs filed an Amended Complaint. (See Docket Item No. 12.)

Rule 15(a) provides that a party may amend his pleading once as a matter of course at any time before a responsive pleading is served. A motion to dismiss is not a responsive pleading within the meaning of Rule 15(a). Fed. R. Civ. P. 15(a); Allwaste, Inc. Hecht, 65 F.3d 1523, 1530 (9th Cir. 1995).

Plaintiffs' August 4 Amended Complaint is their first amended complaint. Accordingly, Defendant's Motion to Dismiss is denied as moot. The September 28, 2009 hearing on the Motion is VACATED.

Dated: September 23, 2009



JAMES WARE
United States District Judge

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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Kingland Technologies LLC
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Dated: September 23, 2009

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy